



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

2011 Hazardous Waste Update

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Description

Amends 329 IAC 3.1-1-7, 329 IAC 3.1-5-2, 329 IAC 3.1-6-2, and 327 IAC 3.1-12-2 to make 5 changes resulting from changes to the federal hazardous waste program in 40 CFR 260 through 40 CFR 279.

Citations Affected

329 IAC 3.1-1-7; 329 IAC 3.1-5-2; 329 IAC 3.1-6-2; 327 IAC 3.1-12-2.

Affected Persons

Hazardous waste generators and other persons regulated under 329 IAC 3.1.

Reason(s) for the Rule

The U.S. Environmental Protection Agency periodically revises its rules for management of hazardous waste under Subchapter III of the Resource Conservation and Recovery Act (RCRA)(42 U.S.C. 6921 et seq.). As required by RCRA section 3006 (42 U.S.C. 6926), the department must revise Indiana's rules for hazardous waste management in 329 IAC 3.1 to ensure they are at least as stringent and as broad in scope as the federal regulations in 40 CFR 260 through 40 CFR 273. This rule incorporates the following federal changes published in the Federal Register on:

- 1) June 15, 2010 at 75 FR 33716 through 75 FR 33724,
- 2) September 22, 2010 at 75 FR 75687 through 75 FR 75688,
- 3) December 17, 2010 at 75 FR 78926, and
- 4) December 20, 2010 at 75 FR 79308.

Economic Impact of the Rule

Estimated annual cost savings of this rule is less than \$100,000. All of these savings result from the federal rule changes.

Benefits of the Rule

These changes will make Indiana's hazardous waste program consistent with current federal standards as required by RCRA section 3006. These changes will ensure the continued protection of human health and the environment in the state of Indiana.

Description of the Rulemaking Project

This rule makes changes to the rules for hazardous waste management in 329 IAC 3.1 by:

- 1) incorporating by reference 40 CFR 261 Appendix IX to describe hazardous wastes excluded from regulation under 40 CFR 261.20 and 40 CFR 261.22;
- 2) removing the emission-comparable fuel exclusion;
- 3) amending the delisting exclusion in 40 CFR 261, Appendix IX for the American Steel Cord facility in Scottsburg, Indiana to reflect changes in ownership and name to Tokusen U.S.A., Inc;
- 4) removing saccharin and its salts (waste code U202) from the lists of hazardous wastes and hazardous constituents; and



- 5) making technical corrections to the alternative requirements for hazardous waste determination and accumulation of unwanted materials at laboratories owned by colleges and universities and other eligible academic entities formally affiliated with colleges and universities.

Public Notices

First Notice of Comment Period: March 2, 2011, Indiana Register (DIN: 20110302-IR-329110090FNA).

Second Notice of Comment Period: May 11, 2011, Indiana Register (DIN: 20110511-IR-329110090SNA).

Scheduled Hearings

First Public Hearing: September 20, 2011.

Second Public Hearing: December 13, 2011.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

This rule is consistent with the federal regulations for hazardous waste management in 40 CFR 260 through 40 CFR 273.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Solid Waste Management Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with Legislative Services.

Additional Information

Additional information regarding this rulemaking action can be obtained from Steve Mojonier, Rules Development Branch, Office of Legal Counsel, (317) 233-1655 or (800) 451-6027 (in Indiana).